

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

TARA SWEENEY
206 San Clemente,
Santa Barbara, California, 93109
Physical Therapy License No. 15816,

Respondent.

Case No. 1D-2009-67479

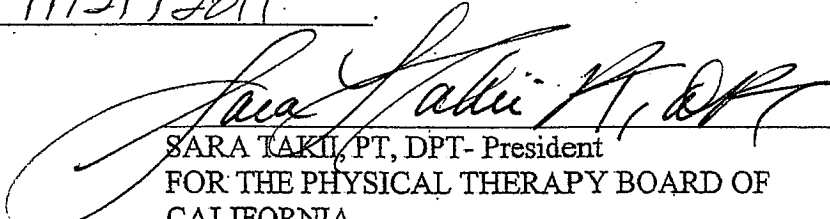
OAH No. 2011040097

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on 12/21/2011

IT IS SO ORDERED 11/21/2011


SARA TAKII, PT, DPT- President
FOR THE PHYSICAL THERAPY BOARD OF
CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
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Attorneys for Complainant

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9 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1D-2009-67479

13 TARA SWEENEY, P.T.
14 206 San Clemente,
Santa Barbara, California, 93109

OAH No. 2011040097

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Physical Therapy License No. 15816,

16 Respondent.
17

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Rebecca Marco (Complainant) is the Executive Officer of the Physical Therapy
23 Board of California (Board). She brought this action solely in his official capacity and is
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
25 Wendy Widlus, Deputy Attorney General.

26 2. Respondent Tara Sweeney, PT. (Respondent) is representing herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.
28

1 3. On or about May 25, 1989, the Board issued Physical Therapy License No. PT 15816
2 to Respondent. The License was in full force and effect at all times relevant to the charges
3 brought in Accusation No. 1D-2009-67479 and will expire on June 30, 2012, unless renewed.

4 JURISDICTION

5 4. Accusation No. 1D-2009-67479 was filed before the Board and is currently pending
6 against Respondent. The Accusation and all other statutorily required documents were properly
7 served on Respondent on January 26, 2011. Respondent timely filed her Notice of Defense
8 contesting the Accusation.

9 A copy of Accusation No. 1D-2009-67479 is attached as Exhibit A and incorporated herein
10 by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 1D-2009-67479. Respondent has also carefully read, and understands the effects
14 of this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 her own expense; the right to confront and cross-examine the witnesses against her; the right to
18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
19 compel the attendance of witnesses and the production of documents; the right to reconsideration
20 and court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 1D-2009-67479.

9. Respondent agrees that her Physical Therapy License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Physical Therapy Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

10. This stipulation shall be subject to approval by the Physical Therapy Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Physical Therapy Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

DISCIPLINARY ORDER

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

A. PUBLIC REPROVAL:

IT IS HEREBY ORDERED that Respondent Tara Sweeney, PT, holder of Physical

Therapy License No. PT 15816, shall be publicly reprovod by the Physical Therapy Board of California for violating Business and Professions Code Sections 2660(d) and (h), 2238, 2239, 2261, 490 and 493 and California Code of Regulations, title 16, section 1399.20, subdivision (a) as set forth in Accusation No. 1D 2009 67479, and shall comply with the following terms and conditions. A copy of the public reproval is attached as Exhibit B and is incorporated here as if fully set forth herein. Said public reproval is conditional upon Respondent's full compliance with the following condition precedent:

B. COST RECOVERY

The Respondent is ordered to reimburse the Board one half of the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$3,873.62. Said costs shall be paid, within thirty (30) days of the effective date of this Decision. The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board. If Respondent is in default of her responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise Tax Board, the Internal Revenue Service or by any other means of attachment of earned wages legally available to the Board. Failure to fulfill the obligation could also result in attachment to Department of Motor Vehicle registrations, license renewals, or both.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physical Therapy License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physical Therapy Board of California.

DATED: 10/26/11


TARA SWEENEY, PT.
Respondent

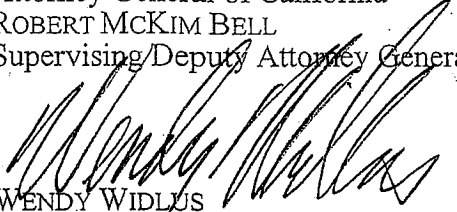
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

Dated: October 24, 2011.

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1D-2009-67479

1 EDMUND G. BROWN JR.
Attorney General of California
2 BENETH A. BROWNE
Deputy Attorney General
3 State Bar No. 202679
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-7816
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY BOARD OF CALIFORNIA
SACRAMENTO, CA October 20, 2010
BY C. Guarantero ANALYST

6
7 BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
8 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

9
10 In the Matter of the Accusation Against:

Case No. 1D 2009 67479

11 TARA SWEENEY
1 N Calle Cesar Chavez, Ste. 110
12 Santa Barbara, CA 93103

ACCUSATION

13 Physical Therapy License No. 15816

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity
19 as the Executive Officer of the Physical Therapy Board of California, Department of Consumer
20 Affairs.

21 2. On or about May 25, 1989, the Physical Therapy Board of California issued Physical
22 Therapist License Number 15816 to Tara Sweeney (Respondent). The license was in full force
23 and effect at all times relevant to the charges brought herein and is scheduled to expire on June
24 30, 2010, with renewal pending.

25 JURISDICTION

26 3. This Accusation is brought before the Physical Therapy Board of California (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2602 of the Code states:

2 "The Physical Therapy Board of California, hereafter referred to as the board, shall enforce
3 and administer this chapter. . . ."

4 5. Section 2609 of the Code states:

5 "The board shall issue, suspend, and revoke licenses and approvals to practice physical
6 therapy as provided in this chapter."

7 6. Section 2660 of the Code states:

8 "The board may, after the conduct of appropriate proceedings under the Administrative
9 Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary
10 conditions upon any license, certificate, or approval issued under this chapter for unprofessional
11 conduct that includes, but is not limited to, one or any combination of the following causes:

12 . . .

13 "(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties
14 of a physical therapist or physical therapist assistant. The record of conviction or a certified copy
15 thereof shall be conclusive evidence of that conviction.

16 . . .

17 "(h) Conviction of a violation of any of the provisions of this chapter or of the Medical
18 Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting
19 the violating of, or conspiring to violate any provision or term of this chapter or of the Medical
20 Practice Act.

21 . . ."

22 7. Section 2238 of the Code states:

23 "A violation of any federal statute or federal regulation or any of the statutes or regulations
24 of this state regulating dangerous drugs or controlled substances constitutes unprofessional
25 conduct."

26 7. Section 2239 of the Code states:

27 "(a) The use or prescribing for or administering to himself or herself, of any controlled
28 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic

1 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
2 any other person or to the public, or to the extent that such use impairs the ability of the licensee
3 to practice medicine safely or more than one misdemeanor or any felony involving the use,
4 consumption, or self-administration of any of the substances referred to in this section, or any
5 combination thereof, constitutes unprofessional conduct. The record of the conviction is
6 conclusive evidence of such unprofessional conduct.

7 (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed
8 to be a conviction within the meaning of this section. . . "

9 . . .

10 8. Section 2661 of the Code states:

11 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
12 charge of a felony or of any offense which substantially relates to the qualifications, functions, or
13 duties of a physical therapist is deemed to be a conviction within the meaning of this article. The
14 board may order the license suspended or revoked, or may decline to issue a license, when the
15 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when
16 an order granting probation is made suspending the imposition of sentence, irrespective of a
17 subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or
18 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
19 dismissing the accusation, information, or indictment."

20 9. California Code of Regulations, title 16, section 1399.20, states:

21 "For the purposes of denial, suspension or revocation of a license, pursuant to Division 1.5
22 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially
23 related to the qualifications, functions or duties of a person holding a license under the Physical
24 Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a
25 person to perform the functions authorized by the license or approval in a manner consistent with
26 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
27 following:

1 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act.

3 "(b) Conviction of a crime involving fiscal dishonesty arising out of or in connection with
4 the practice of physical therapy.

5 "(c) Violating or attempting to violate any provision or term of the Medical Practice Act."

6 10. Section 490 of the Code provides, in pertinent part, that a board may suspend or
7 revoke a license on the ground that the licensee has been convicted of a crime substantially
8 related to the qualifications, functions, or duties of the business or profession for which the
9 license was issued.

10 11. Section 493 of the Code states:

11 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
12 the department pursuant to law to deny an application for a license or to suspend or revoke a
13 license or otherwise take disciplinary action against a person who holds a license, upon the
14 ground that the applicant or the licensee has been convicted of a crime substantially related to the
15 qualifications, functions, and duties of the licensee in question, the record of conviction of the
16 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
17 and the board may inquire into the circumstances surrounding the commission of the crime in
18 order to fix the degree of discipline or to determine if the conviction is substantially related to the
19 qualifications, functions, and duties of the licensee in question.

20 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
21 'registration.'"

22 COST RECOVERY

23 12. Section 2661.5 of the Code states:

24 "(a) In any order issued in resolution of a disciplinary proceeding before the board, the
25 board may request the administrative law judge to direct any licensee found guilty of
26 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
27 the investigation and prosecution of the case.

1 "(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
2 conclusive proof of the validity of the order of payment and the terms for payment.

3 FIRST CAUSE FOR DISCIPLINE

4 (Conviction of a Crime)

5 13. Respondent is subject to disciplinary action under sections 2660(d)(h), 2661, 490 and
6 493 of the Code, and Title 16, section 1399.20, subdivision (a) of the California Code of
7 Regulations in that she was convicted of a crime substantially related to the practice of physical
8 therapy, to wit, violation of California Vehicle Code section 23152, subd. (a), a misdemeanor.
9 The circumstances are as follows:

10 A. On or about June 26, 2009, a misdemeanor complaint was filed against
11 Respondent in the matter of *People of the State of California v. Tara Burns Sweeney*, in Superior
12 Court, County of Santa Barbara, Case Number 1297637, charging her with two offenses:
13 Violation of Vehicle Code sections 23152, subdivision (a), (Driving Under the Influence) and
14 23152, subdivision (b), (Per Se Violation, 0.08 percent or more), both misdemeanors.

15 B. On or about July 31, 2009, Respondent was convicted of misdemeanor driving
16 under the influence following a plea of *nolo contendere* to violating Vehicle Code section 23152,
17 subdivision (b) which states, "It is unlawful for any person who has 0.08 percent or more, by
18 weight, of alcohol in his or her blood to drive a vehicle."

19 C. After the conviction, Respondent was placed on probation for three years,
20 sentenced to 90 days in jail (7 days served), ordered to pay fines, and was ordered to complete a
21 nine-month first offender alcohol program.

22 D. The facts and circumstances surrounding this offense are as follows: On or
23 about June 4, 2009, a police officer from the Santa Barbara Police Department was called to the
24 scene of traffic collision involving Respondent and another party (P2), who reported that she (P2)
25 believed Respondent was driving under the influence. The police officer spoke to both
26 Respondent and P2 and observed objective signs of intoxication in Respondent.

27 E. The police officer then asked Respondent to perform several field sobriety tests
28 (FSTs), which Respondent failed to successfully complete. The officer concluded that

1 Respondent was under the influence and arrested her for violation of Vehicle Code section 23152,
2 subdivisions (a) and (b). Respondent's vehicle was also towed per California Vehicle Code
3 section 22651, subdivision (h), and a copy of the police report was forwarded to the District
4 Attorney's office for review.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Excessive Use of Alcohol/Violation of Drug Statutes)


7 14. Respondent is further subject to disciplinary action under sections 2238 and 2239 of
8 the Code as a result of her July 31, 2009 misdemeanor DUI conviction and for her use of
9 alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to herself,
10 or any other person or the public. Paragraphs 13A through E set forth in the First Cause for
11 Discipline are incorporated herein by reference.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Physical Therapy Board of California issue a decision:

- 15 1. Revoking or suspending PT Number 15816, issued to Tara Sweeney.
16 2. Ordering her to pay the Board the reasonable costs of the investigation and
17 enforcement of this case, and if placed on probation, the costs of monitoring.
18 3. Taking such other and further action as deemed necessary and proper.

19
20 DATED: October 20, 2010


21 STEVEN K. HARTZELL
22 Executive Officer
23 Physical Therapy Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant

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Exhibit B
Public Reproval



Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - GOVERNOR EDWARD G. BROWN JR.

Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

Phone: (916) 561-8200 Fax: (916) 263-2560

Internet: www.ptbc.ca.gov EMAIL: cps@dca.ca.gov



PUBLIC REPROVAL

Tara Sweeney, PT
206 San Clements
Santa Barbara, California 93109

Re: Public Reproval Pursuant to Decision in
Case Number: 1D 2009 67479
Accusation Against: Tara Sweeney

Dear Ms. Sweeney,

Your California Physical Therapist License, No. PT 15816 is publicly reprovod under Business and Professions Code sections 2660(d) and (h), 2238, 2239, 2261, 490 and 493 and California Code of Regulations, title 16, section 1399.20, subdivision (a), in that Respondent was convicted of a crime substantially related to the practice of physical therapy, to wit, a violation of California Vehicle Code section 23152 (b), commonly known as "Driving a vehicle with 0.08 percent or more, by weight, of alcohol in her blood" and for her use of alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to herself or any other person or to the public.

You have admitted the truth of each and every charge and allegation in Accusation No. 1D 2009 67479 and have paid the cost recovery.

Pursuant to the authority of Business and Professions Code Section 495, you are hereby issued this Public Reproval by the Physical Therapy Board of California.

Sincerely,

Sara Takii, PT, DPT, President
FOR THE PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS